

# FINANCIAL STABILITY REFORM

## (as of January 1, 2010)

Numerous government agencies are responsible for regulating financial institutions. Commentators have noted that without a governing body to oversee the various agencies, we remain vulnerable to regulatory gaps and oversight failures. The House recently passed legislation creating a council to oversee financial institutions. The Senate discussion draft bill creates a similar agency.

<b>The Wall Street Reform and Consumer Protection Act of 2009, passed by the House on December 11, 2009</b>	<b>Senate Discussion Draft released by Senator Dodd on November 10, 2009</b>
<p><b>Council Creation</b></p> <ul style="list-style-type: none"> <li>- Creation of Financial Services Oversight Council               <ul style="list-style-type: none"> <li>- Chaired by Secretary of Treasury</li> <li>- Voting members consist of heads of federal financial regulatory agencies (Treasury, Federal Reserve, OTS<sup>1</sup>, OCC, SEC, CFTC, FDIC, Federal Housing Finance Agency, National Credit Union Administration, and Consumer Financial Protection Agency)</li> <li>- Federal Reserve to act as agent for the Council</li> <li>- Non-voting members consist of the Director of the Federal Insurance Office, a state insurance commissioner, a state banking commissioner, and a state securities commissioner</li> </ul> </li> <li>- Act by majority vote and be subject to audit and evaluation by GAO</li> </ul>	<ul style="list-style-type: none"> <li>- Creation of Agency for Financial Stability               <ul style="list-style-type: none"> <li>- Chaired by a presidential appointee who is subject to Senate confirmation</li> <li>- Members consisting of heads from federal agencies (Treasury, SEC, FIRA, Federal Reserve, FDIC, CFPA, CFTC, independent member appointed by President with insurance experience)</li> <li>- Members serve six year terms</li> </ul> </li> <li>- Not regulators, have rule-making authority only</li> </ul>
<p><b>Council Authority</b></p> <ul style="list-style-type: none"> <li>- Monitor financial marketplace and identify threats to stability</li> <li>- Make formal recommendations and subject financial companies and financial activities to stricter prudential standards provided that the standards do not supersede consumer or investor protection laws under state and federal law (on both an industry wide basis and on an individual firm basis if firm is a Designated Company)</li> <li>- Subject Designated Companies to stricter requirements and oversight by Federal Reserve</li> <li>- Catch-all authority to take action to mitigate systemic risk</li> <li>- Request reports and information from all financial companies to assess financial market and potential threats</li> </ul>	<ul style="list-style-type: none"> <li>- Monitor financial marketplace and identify threats to stability and regulatory gaps</li> <li>- Make formal recommendations and subject financial companies and financial activities to stricter prudential standards</li> <li>- Authority to take action to mitigate systemic risk and to request reports and information from all financial companies to assess financial market and potential threats</li> <li>- Require BHCs with a minimum of \$10 billion to establish risk committees</li> </ul>
<p><b>Other</b></p> <ul style="list-style-type: none"> <li>- Significant market developments and details regarding the 50 largest financial institutions reported to Congress semi-annually</li> <li>- Financial institutions can appeal Council requirement to implement stricter standards</li> <li>- Authority for FDIC to create emergency guarantee program upon 2/3 vote of Council</li> <li>- Limit Bank Holding Company Act exemption to credit card banks and trust-only banks</li> <li>- Broader powers given to Federal Reserve</li> </ul>	<ul style="list-style-type: none"> <li>- Significant market developments and recommendations reported semi-annually to Congress</li> <li>- Limit Federal Reserve emergency loans mostly to healthy firms, not failing firms</li> <li>- Financial institutions can appeal Agency requirements to implement stricter standards</li> <li>- FIRA registration and exam authority</li> </ul>

<sup>1</sup> OTS will serve on council until its functions are transferred to the OCC.